THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

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AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT APPEAL No.907 OF 2005

19th October 2005

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Between:

Rayalaseema Concrete Sleepers Factory
Workers Union, rep. by its General Secretary,
Y.Sekhar, Thimmanacherla, Guntakal,
Anantapur District. ...Appellant.

AND

Rayalaseema Concrete Sleepers Pvt. Ltd. &
another. …Respondents.

ORAL JUDGMENT: (per Hon'ble Sri Bilal Nazki, the Acting Chief Justice)

Heard the learned counsel for the parties.

This writ appeal is filed against an order passed by a learned single Judge. The appeal has been filed with the leave of the Court as the appellant herein was not a

party to the writ petition. The writ petition was filed seeking a direction against the Police that they should provide assistance to the writ petitioner in lifting the stocks as the writ petitioner company was to supply certain stocks to the Railways.

The case of the appellant union is that they are the workmen of the writ petitioner company and their wages have not been paid from November 2003 and an amount of about Rs.69 lakhs is due to the workers union from the company. When this Court entertained the writ appeal, passed an order that the stocks be allowed to be removed as the grievance of the writ petitioner was that the writ appellant union was not allowing them to remove the stocks. Therefore, they have sought the assistance of the police. This Court by order dated 26-4-2005 directed that a bank guarantee of Rs.69 lakhs shall be given before the Deputy Commissioner of Labour, Kurnool by the writ petitioner and the appellant union was restrained from creating any impediment in lifting the stocks by the writ petitioner. An application for modifying the said order has been filed and we have heard the learned counsel for the parties. It appears that the writ appellant filed some application before the Deputy Commissioner of Labour claiming their wages. The application was allowed, but the Award was challenged in a writ petition being W.P.No.10553 of 2004. This writ petition has been allowed. The Court held that the writ appellants had chosen a wrong forum. Therefore, the Award impugned was set aside. However, they were given liberty to approach the appropriate forum and Mr. Balagopal has informed this Court that the writ appellant union has already moved the Labour Court in appropriate proceedings. He submits that for the last about three years, wages have not been paid to the workers. The writ petitioner wanted to close the industry which was rejected by the Government and, therefore, they legally continue to be the workers of the writ petitioner company, whereas the learned counsel for the writ petitioner submits that as on today nothing has been decided. Even the claim of the writ appellant has not been decided. Whether the Government's refusal of closure was legal or illegal is also subject matter of the writ petition. Since the rights of the parties have yet to be decided, this Court could not bind the writ petitioner with the bank guarantee of Rs.69 lakhs. In any case, the writ petitioner has sufficient means to meet the demand if an Award is passed in favour of the writ appellant. Keeping in view all these facts, we feel that at present when the rights of the writ appellant are yet to be decided, no liability could be passed on to the respondent – writ petitioner. But, at the same time, if the writ appellant succeeds in the proceedings initiated by them before the Labour Court, they should not find

themselves in lurch if the writ petitioner is not able to satisfy the Award in their favour.

In these circumstances, we modify the order dated 26-4-2005 in WAMP.No.1726 of 2005 to the extent that the writ petitioner shall give an undertaking before the Registrar (Judicial) of this Court that in case the writ appellant succeeds in the Labour Court, they shall discharge the Award. After the undertaking is given before the Registrar (Judicial) of this Court, he shall direct the Deputy Commissioner of Labour, Kurnool Zone to return Bank Guarantee No.13/04-05, dated 20-5-2005.

With these observations the writ appeal is disposed of.

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(BILAL NAZKI, ACJ)

19th October 2005.

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(R.SUBHASH REDDY, J.)

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